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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,615	03/08/2001	Benjamin Andrew Himmel	AUS920000849US1	5325

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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/801,615

Applicant(s)

HIMMEL ET AL.

Examiner

Robert M. Pond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,15,17,19-29,31 and 33-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-13, 15, 17, 19-29, 31, and 33-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Applicant amended Claims 1, 13, 15, 17, 29, 31, 41, and 42. All pending claims (1, 3-13, 15, 17, 19-29, 31, and 33-42) were examined in this final Office Action.

Response to Arguments

Rejection under 35 USC 101

The Applicant amended Claims 1, 4-12, and 15 to overcome rejection under 35 USC 101. Rejection of Claims 1, 4-12, and 15 under 35 USC 101 is withdrawn.

Rejection under 35 USC 102

Applicant's arguments filed 08 December 2004 have been fully considered but they are not persuasive. The Applicant argues Barni does not teach a second electronic business creating a second priced object in response to a first electronic business' first priced object.

Barni brings carriers, freight forwarders, and end customers together in an open electronic commerce forum. To better understand the method of Barni, the Applicant is requested to focus on Figures 4-12. Barni depicts Evergreen's (an electronic business) published rates (first priced objects) (e.g. 7,000 or 6,950 for a 40-foot containers to ship on 5/31/99) for a shipping lane from N.Y. USA to

Manila, Philippines (see at least col. 5, lines 15-50). Two carriers service this shipping lane, Evergreen and Sea Land (an electronic business) (see at least col. 5, lines 51-67). Sea Lands' published rates (first priced objects) for 40-foot containers is 7,500 or 8,000 to ship on 6/12/99 (please see Fig. 4 (52, 54, 60, 66 (6,950))).

The buyer can accept a published rate or post a bid. As highlighted in Figure 4, the buyer is accepting Evergreen's published rate of 6,950 for 40-foot containers to ship on 5/31/99 (see Fig. 5 (80, 82, 84, 86, 88); col. 6, lines 1-18).

As depicted in Figure 6, seller and buyers can view and accept cargo bids, and sellers and buyers can create and post cargo bids (see Fig. 6 (90, 92, 94, and 96). For instance, the buyer (can be an electronic business) creates a bid of 5,000 (second priced object having received first priced objects) for a quantity of 10 40-foot containers to ship on 6/12/99 for the shipping lane from N.Y. USA to Manila, Philippines and posts the bid (see Fig. 7 (98, 100, 104, 110). The buyer's bid is posted on the Buyer's Bids Auction Block for the shipping lane from N.Y. USA to Manila, Philippines (see Fig. 8 (112, 114, 122 (5,000))). Two bids have been posted for this shipping lane (please note: two bids can be from same buyer or two different buyers) and any seller can accept one or both posted buyer bids (see at least col. 6, lines 45-65). In response to a buyer's posted bid of 5,000 for 10 containers, any seller can accept the offer by selecting the buyer's anonymous bid (as highlighted), entering an identification number, and clicking the icon to accept the bid on the buyer's terms (see Fig. 9 (112, 114, 134,

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132,136). Since this is an open forum, all sellers and buyers are receiving the same postings from N.Y. USA to Manila, Philippines- for illustrative purposes, Evergreen or Sea Land can accept this particular buyer bid.

As depicted in Figure 10, any seller can create and post a bid for the shipping lane from N.Y. USA to Manila, Philippines. The seller having received first price objects based on published rates creates a second priced object by posting a bid on 4/30/99 for 4 40-foot containers at a rate of 7,250 to ship on 5/31/99 (see Fig. 10 (138, 140, 142, 144, 146, 156, 163). This second priced object was created by a first electronic business, or second electronic business, or any electronic business acting as a seller. The open forum bidding process can create third, fourth, fifth-priced objects, etc. until a bid is accepted or terminated.

Based on the explanations taken directly from the drawings and supporting disclosure, Barni's open electronic commerce forum teaches first electronic businesses creating first priced objects and second electronic businesses creating second priced objects having received the first priced objects.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1, 3-13, and 15 are rejected under 35 USC 102(e) as being anticipated by Barni et al. (Paper #2, patent number 6,064,981).**

Barni et al. teach all the limitations of Claims 1, 3-13, and 15. For example, Barni et al. disclose a method for identifying an item for purchase to a buyer, using the online service to identify competitive prices (e.g. one or more competing businesses) for an item (e.g. a unit of cargo space), and sellers competing for the customer's business by openly viewing competing offers (see at least abstract: col. 1, line 7 through col. 2, line 38). Barni et al. further disclose:

- Receiving a selection of an item for sale: users selecting items from a web site; central system receiving a selection of a selected item (unit of cargo space) for sale by an entity desiring to purchase the item (see at least col. 1, lines 8-61; col. 5, lines 15-30).
- Generating a priced object: first electronic system provides sale item(s) (see at least col. 5, lines 15-30); document or other object formatted according to HTML (see at least col. 1, lines 36-41).

- Providing the priced object: central system provides priced object to a second system (see at least Fig. 2 (32); Fig. 4 (66); col. 4, lines 15-41).
- Storing priced object: central system stores priced objects in a database of item information (see at least col. 6, lines 7-17).
- Generating priced object using one of a: using web browsers, links, plugins, and servlets (see at least col. 3, lines 49-65).
- Second electronic system modifies priced object: an open bidding forum permits one or more online sellers of cargo space to view a competitor's bid, adjusts terms of sale, and post their modified bids for consumer comparison shopping (see at least Fig. 6 (90-96); Fig. 7 (98-110); Fig. 8 (116-130); col. 6, lines 19-65).
- Encrypting priced object: security protocols, Secure Socket Layer (please note encryption is inherent in SSL) (see at least col. 3, lines 44-47).

2. Claims 17 and 19-29 are rejected under 35 USC 102(e) as being anticipated by Barni et al. (Paper #2, patent number 6,064,981).

Barni et al. teach all the limitations of Claims 17 and 19-29. For example, Barni et al. disclose a system with means for identifying an item for purchase to a buyer, using the online service to identify competitive prices (e.g. one or more competing businesses) for an item (e.g. a unit of cargo space), and sellers competing for the customer's business by openly view competing offers (see at least abstract: col. 1, line 7 through col. 2, line 38). Barni et al. disclose a central

server and client systems connected via the Internet, web browser user interfaces, database storage, and security protocols (see at least abstract; Fig. 1 (10-28); Fig. 2 (30-38); col. 3, line 10 through col. 4, line 41; col. 6, lines 7-17).

Barni et al. further disclose:

- Receiving a selection of an item for sale: users selecting items for sale
central system receives selection of a selected item (unit of cargo space)
for sale by an entity desiring to purchase the item (see at least col. 1, lines 8-61; col. 5, lines 15-30).
- Generating a priced object: first electronic system provides sale item(s)
(see at least col. 5, lines 15-30); document or other object formatted
according to HTML (see at least col. 1, lines 36-41).
- Providing the priced object: central system provides priced object to a
second system (see at least Fig. 2 (32); Fig. 4 (66); col. 4, lines 15-41).
- Storing priced object: central system stores priced objects in a database of
item information (see at least col. 6, lines 7-17).
- Generating priced object using one of a: web browsers, links, plug-ins,
and servlets (see at least col. 3, lines 49-65).
- Second electronic system modifies priced object: an open bidding forum
permits one or more online sellers of cargo space to view a competitor's
bid, adjusts terms of sale, and post their modified bids for consumer
comparison shopping (see at least Fig. 6 (90-96); Fig. 7 (98-110); Fig. 8
(116-130); col. 6, lines 19-65).

- Encrypting priced object: security protocols, Secure Socket Layer (please note encryption is inherent in SSL) (see at least col. 3, lines 44-47).

3. Claims 31 and 33-42 are rejected under 35 USC 102(e) as being anticipated by Barni et al. (Paper #2, patent number 6,064,981).

Barni et al. teach all the limitations of Claims 31 and 33-42. For example, Barni et al. disclose a software program executed on computers for identifying an item for purchase to a buyer, using the online service to identify competitive prices (e.g. one or more competing businesses) for an item (e.g. a unit of cargo space), and sellers competing for the customer's business by openly view competing offers (see at least abstract: col. 1, line 7 through col. 2, line 38). Barni et al. disclose a central server and client systems connected via the Internet, web browser user interfaces, database storage, and security protocols (see at least abstract; Fig. 1 (10-28); Fig. 2 (30-38); col. 3, line 10 through col. 4, line 41; col. 6, lines 7-17). Barni et al. further disclose:

- Receiving a selection of an item for sale: users selecting an item for sale; central system receives selection of a selected item (unit of cargo space) for sale by an entity desiring to purchase the item (see at least col. 1, lines 8-61; col. 5, lines 15-30).
- Generating a priced object: first electronic system provides sale item(s) (see at least col. 5, lines 15-30); document or other object formatted according to HTML (see at least col. 1, lines 36-41).

- Providing the priced object: central system provides priced object to a second system (see at least Fig. 2 (32); Fig. 4 (66); col. 4, lines 15-41).
- Storing priced object: central system stores priced objects in a database of item information (see at least col. 6, lines 7-17).
- Generating priced object using one of a: web browsers, links, plug-ins, and servlets (see at least col. 3, lines 49-65).
- Second electronic system modifies priced object: an open bidding forum permits one or more online sellers of cargo space to view a competitor's bid, adjusts terms of sale, and post their modified bids for consumer comparison shopping (see at least Fig. 6 (90-96); Fig. 7 (98-110); Fig. 8 (116-130); col. 6, lines 19-65).
- Encrypting priced object: security protocols, Secure Socket Layer (please note encryption is inherent in SSL) (see at least col. 3, lines 44-47).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

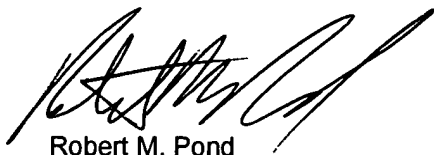
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. M. Pond', is written over the printed name.

Robert M. Pond
Primary Examiner
February 10, 2005